

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**THE UNITED STATES OF AMERICA**

v.

**PAULETTE MARTIN,  
LEARLEY GOODWIN,  
REECE WHITING,  
DERREK BYNUM,  
RUBY HARDEN,  
LAVON DOBIE,  
LANORA ALI,  
MILBURN WALKER, and  
GEORGE HARRIS,**

Defendants.

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Criminal Case No. RWT 04-0235

**MEMORANDUM OPINION**

Defendant Derek Bynum, joined by six of his co-defendants in Trial Group 3 (Reece Whiting, Ruby Harden, Lavon Dobie, Lanora Ali, Milburn Walker, Jr., and George Harris), has requested that the Court give the jury in this case an instruction that defines “beyond a reasonable doubt.”

In many other circuits, the Court could consider such a request. As the Defendant’s own memorandum notes, however, “[t]he Fourth Circuit does not permit an instruction.” Mem. in Support at 2 (citing *Jenkins v. Hutchinson*, 221 F.3d 679 (4th Cir. 2000)). Fourth Circuit precedents on the issue are repeated, recent, and clear: “It is well settled in this circuit that a district court should not attempt to define the term ‘reasonable doubt’ in a jury instruction absent a specific request for such a definition from the jury.” *United States v. Smith*, 441 F.3d 254, 270 (4th Cir. 2006) (quoting *United States v. Oriakhi*, 57 F.3d 1290, 1300 (4th Cir. 1995)). Indeed, although the exception mentioned in *Smith*, which permits an instruction on reasonable doubt when the jury specifically requests it, has been articulated frequently, the Fourth Circuit has categorized it as

“dicta” and expressed doubt about whether an instruction should be given even then. *See United States v. Reives*, 15 F.3d 42, 45–46 (4th Cir. 1994).

Accordingly, the Defendants’ request for a reasonable doubt instruction must be denied. The Court will entertain arguments that a reasonable doubt instruction should be given if and when the jury specifically requests one. As a part of the jury instructions given at the close of the case, however, such an instruction is clearly forbidden. The request will be denied by separate order.

May 16, 2006  
DATE

/s/  
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ROGER W. TITUS  
UNITED STATES DISTRICT JUDGE

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**ORDER**

Upon consideration of Defendant Derek Bynum's Request for Jury Instruction [Paper No. 818], joined by Defendants Reece Whiting, Ruby Harden, Lavon Dobie, Lanora Ali, Milburn Walker, Jr., and George Harris, and for the reasons stated in the accompanying memorandum opinion, it is this 16th day of May, 2006, by the United States District Court for the District of Maryland,

**ORDERED**, that Defendants' Request for Jury Instruction [Paper No. 818] is **DENIED**.

/s/

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ROGER W. TITUS  
UNITED STATES DISTRICT JUDGE